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FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832

MICHAEL J. BARRON, JR.
(312) 252-1511
mbarron@fletcher-sippel.com

ORIGINAL

Phone (312) 252-1500
Fax (312) 252-2400
www.fletcher-sippel.com

August 28, 2008

VIA FEDERAL EXPRESS

Ms. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

FILED

AUG 29 2008

**SURFACE
TRANSPORTATION BOARD**



Re: **Docket No. AB-43 (Sub-No. 184X)**
Illinois Central Railroad Company -- Abandonment
Exemption -- In Cook County, Illinois

Dear Secretary Quinlan:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Petition for Exemption of Illinois Central Railroad Company**, dated August 28, 2008. A check in the amount of \$6,300, representing the appropriate fee for this filing, is enclosed.

In accordance with 49 C.F.R. § 1152.60(c), a CD containing the text of the draft *Federal Register* notice of this petition for exemption (Exhibit B to the Petition) in MS Word 2000 format also is enclosed. One extra copy of the Petition and this letter are enclosed as well. I would request that you date-stamp those items to show receipt of this filing and return them to me in the provided envelope.

The original copy of the Environmental/Historic Report has previously been provided to the Board.

FEE RECEIVED

AUG 29 2008

TRANSPORTATION BOARD

ENTERED
Office of Proceedings

AUG 29 2008

Part of
Public Record

FLETCHER & SIPPEL LLC

Ms. Anne K. Quinlan

August 28, 2008

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If you have any questions regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter Kind regards.

Respectfully submitted,



Michael J. Barron, Jr.

Attorney for Illinois Central Railroad Company

MJB: arw

Enclosures

cc: Service List

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB-43 (SUB-NO. 184X)

ILLINOIS CENTRAL RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN COOK COUNTY, ILLINOIS

**PETITION FOR EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY**

Michael J. Barron, Jr.
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEY FOR
ILLINOIS CENTRAL RAILROAD COMPANY**

Dated: August 28, 2008

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB-43 (SUB-NO. 184X)

**ILLINOIS CENTRAL RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN COOK COUNTY, ILLINOIS**

**PETITION FOR EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY**

Pursuant to 49 U.S.C. § 10502 and the regulations of the Surface Transportation Board (the "Board") at 49 C.F.R. §§ 1121 and 1152.60, Illinois Central Railroad Company ("IC") hereby petitions the Board for an exemption from the prior approval requirements of 49 U.S.C. § 10903 for IC to abandon an industrial spur, referred to herein as the "Line," beginning from the point of switch at Station 0+00 (mainline MP 3.00-Throop Street) and extending northeasterly 5,863 feet to the end of track at Station 58+63 (mainline MP 2.00-Cermak Road) where it stub-ends, all in Chicago, Cook County, Illinois. A map showing the location of the Line is attached to this Petition as Exhibit A. A draft *Federal Register* notice of this Petition in the form prescribed by 49 C.F.R. § 1152.60(c) is attached hereto as Exhibit B. Even though it is classified as an industrial spur, and there are no mileposts, the Line was apparently once part of the Chicago and Alton main line in Chicago, and IC has not located any record of an abandonment for the Line nor any evidence of the main being relocated. Therefore, to be prudent, IC is seeking an exemption to allow it to abandon the Line.

Traffic on the Line has plummeted to substantially zero since September of 2006. Prior to September of 2006 the only user of rail service on the Line was Allied Metals, located at the end of the Line. From January 3, 2006 through September 26, 2006, Allied Metals received

201 cars of inbound scrap metal. Subsequent to September of 2006 the only car that was ordered for the Line was another inbound car of scrap metal for Allied Metals. That single car was ordered in March of 2008. The railroad was unable to spot the car at Allied Metals due to a track condition situation.¹ Instead IC spotted the car at an alternate location, unloaded it and trucked the material to Allied Metals at railroad expense. In the years 2006, 2007 and 2008, there have been no outbound cars from Allied Metals. There are no other shippers on the Line besides Allied Metals, and there is no overhead traffic on the Line. The track condition is poor and the Line crosses several urban Chicago streets. Significant rehabilitation would be required if the line is to remain in service, and cannot be economically justified given the lack of traffic on the Line and the Line's inability to cover even its own operating expenses. There is no reasonable prospect for the resumption or development of new rail traffic in the near future that would support operations on the Line. Abandonment of the Line is unfortunately necessary and warranted

As discussed further below, abandonment of the Line plainly satisfies the exemption criteria of 49 U.S.C. § 10502, and this petition should be granted.

A copy of this petition has been served on Allied Metals.

I. IDENTIFICATION OF PETITIONER

Petitioner IC is a Class I common carrier by rail which owns and operates approximately 2,550 miles of rail line in six Midwestern and South Central states. IC is a wholly-owned subsidiary of Canadian National Railway Company.

¹ IC has since embargoed the Line due to the track conditions discovered in March.

The complete name and address of IC is:

Illinois Central Railroad Company
17641 South Ashland Avenue
Homewood, Illinois 60430-1345

II. DESCRIPTION OF LINE TO BE ABANDONED

IC seeks to abandon an industrial spur beginning from point of track at Station 0+00 (mainline MP 3.00-Throop Street) and extending northeasterly 5,863 feet to the end of track at Station 58+63 (mainline MP 2.00-Cermak Road) a distance of approximately 1.1 miles in Chicago, Cook County, Illinois. Track and materials from the Line that are salvageable will be used for upgrading and maintaining other active rail lines. Remaining material will be sold as scrap.

The Line sits at ground level but abuts the adjacent and elevated IC main line for nearly the entire length of the segment to be abandoned. Pursuant to 49 C.F.R. § 1152.60(d), IC states that, based on information in its possession, the Line does not contain federally granted rights-of-way. Any relevant documentation on this subject in IC's possession will be made available promptly to those requesting it.

III. JURISDICTION AND STATUTORY STANDARDS

The Board has jurisdiction over the proposed abandonment of IC's Line pursuant to 49 U.S.C. § 10903. Generally, a common carrier by rail must obtain authority from the Board under Section 10903 before abandoning a line of railroad. However, 49 U.S.C. § 10502 requires the Board to exempt a person, transaction or service from the statutory and regulatory requirements otherwise applicable to a rail carrier when the Board determines that:

(1) application of those requirements is not necessary to carry out the rail transportation policy of

49 U.S.C. § 10101; and (2) either (a) the transaction is of limited scope or (b) regulation is not needed to protect shippers from an abuse of market power.

The legislative history of Section 10502 reveals a clear Congressional intent that the STB should liberally use its exemption authority to free certain transactions from the administrative and financial costs associated with continued regulation. In enacting the Staggers Rail Act of 1980, Pub. L. No. 96-488, 94 Stat. 1895, Congress encouraged the STB's predecessor agency to liberally use the expanded exemption authority under former Section 10505:

The policy underlying this provision is that while Congress has been able to identify broad areas of commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemption from remaining regulation.

H.R.Conf. Rep. No. 1430, 96th Cong. 2d Sess. 105 (1980). See also Exemption From Regulation -- Boxcar Traffic, 367 I.C.C. 424, 428 (1983), *vacated and remanded on other grounds*, Brac Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984). Congress reaffirmed this policy in the conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which re-enacted the rail exemption provisions as Section 10502. H.R.Conf. Rep. No. 422, 105th Cong., 1st Sess. 168-69 (1995).

IV. CRITERIA OF 49 U.S.C. § 10502

IC requests that the Board grant to it, pursuant to the Board's authority under 49 U.S.C. § 10502, an exemption from the requirements of 49 U.S.C. § 10903 for the following reasons:

**A. Detailed Scrutiny Under 49 U.S.C. § 10903
Is Not Necessary To Carry Out The Rail
Transportation Policy Of 49 U.S.C. § 10101**

Granting IC an exemption to abandon the Line is consistent with the goals articulated in the national Rail Transportation Policy, 49 U.S.C. § 10101. By allowing IC to avoid the expense of retaining, repairing and maintaining a line that generates no traffic or future revenue -- and by permitting IC to redeploy its assets more productively elsewhere -- exemption will encourage the honest and effective management of railroads and promote the development of an economically sound and efficient transportation system. 49 U.S.C. §§ 10101(3), (4), (5) and (9). Given the absence of any current or prospective on-line traffic, there is no reasonable likelihood that the Line could be operated profitably, and no justification under the criteria of Section 10101 to burden IC with retention of the line.

The rail transportation policy also provides that the Board should minimize the need for federal regulatory control over the rail transportation system, expedite regulatory decisions and reduce barriers to exit. 49 U.S.C. §§ 10101(2), (7), and (15). The statutory exemption procedure of Section 10502 obviates the need for the expensive and time-consuming processes attendant to a proceeding under Section 10903, including the costs of preparing an application. Reliance on the adequate and expeditious exemption procedure herein would minimize Board regulation of this transaction and reduce the regulatory burden on IC.

None of the other rail transportation policy criteria will be adversely affected. A copy of this petition is being served on the one recent shipper on the Line.

B. The Transaction Is Of Limited Scope

The transaction for which exemption is sought consists solely of the abandonment of an unused industrial spur line totaling approximately 1 mile in an urban area, with no overhead traffic and no potential to develop new business. There are no reasonable prospects for future rail traffic on the Line. The proposed abandonment clearly is of limited scope.

C. Regulation Is Not Necessary To Protect Shippers From An Abuse Of Market Power

Since this transaction is of limited scope, IC does not need to demonstrate that regulation is unnecessary to protect shippers from abuse of market power. 49 U.S.C. § 10502(a)(2). Even so, it is clear that this transaction will not and cannot subject shippers to any market power abuse, as there is no current traffic on the Line.

Accordingly, regulation by the Board of this abandonment is not and cannot be necessary to protect any shipper from an abuse of power.

V. LEVEL OF LABOR PROTECTION TO BE IMPOSED


IC does not anticipate any adverse impact on employment levels as a result of the proposed abandonment. No regular operations or regular maintenance have been conducted on the Line for some time. IC agrees that the appropriate level of employee protection to be imposed on this discontinuance and abandonment is that established in Oregon Short Line R. Co. -- Abandonment -- Goshen, 360 I.C.C. 91 (1979).

VI. ENVIRONMENTAL REPORT

In accordance with the requirements of 49 C.F.R. §§ 1105.7, 1105.8 and 1121.3(b), an Environmental/Historic Report has been submitted.

WHEREFORE, IC respectfully requests that the Board exempt from the prior approval requirements of 49 U.S.C. § 10903 the abandonment by IC of the Line extending from Station 0+00 to Station 58+63, all Chicago, Cook County, Illinois.

Respectfully submitted,

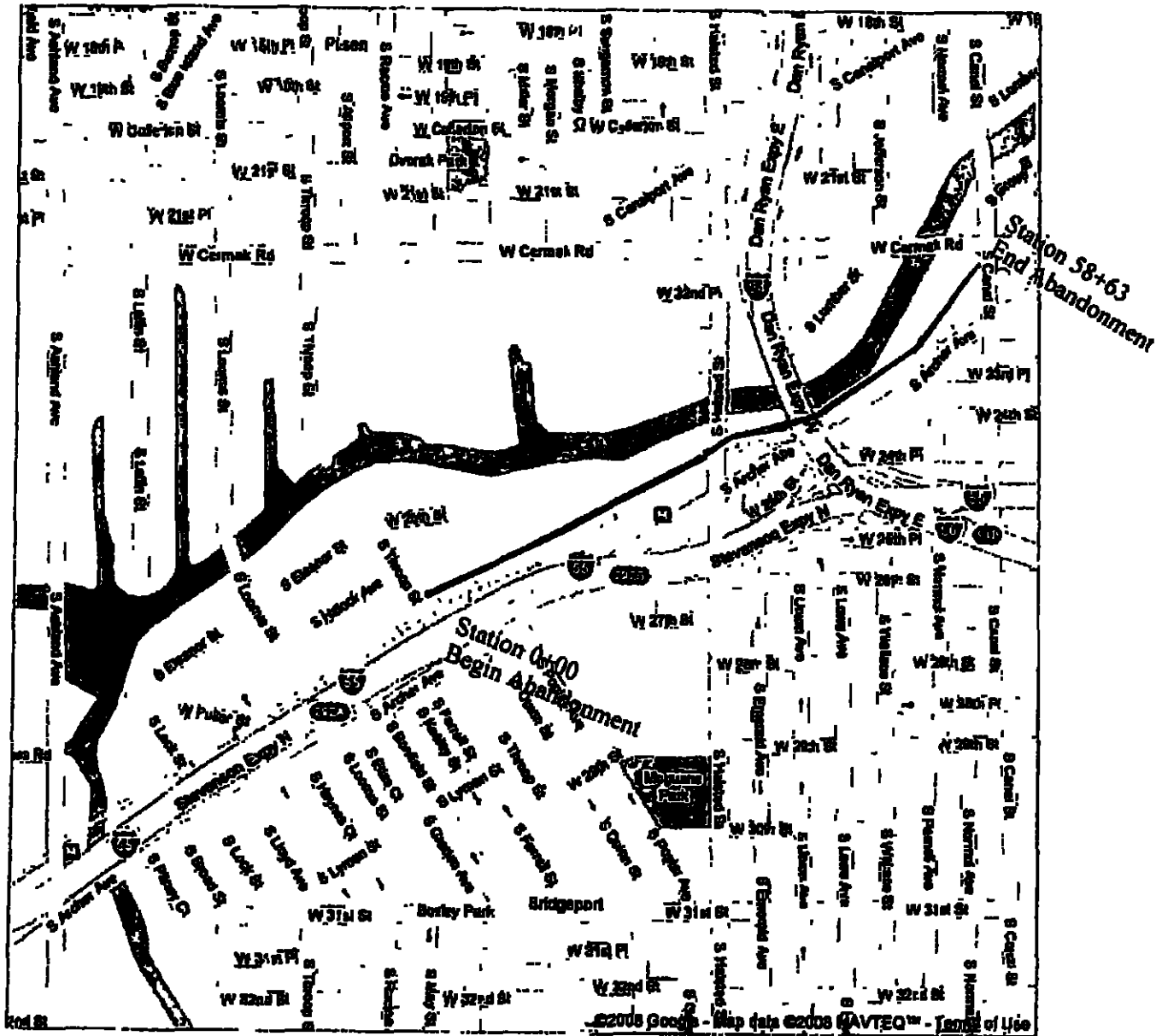
By: 
Michael J. Barron, Jr.
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEY FOR
ILLINOIS CENTRAL RAILROAD COMPANY**

Dated: August 28, 2008

Google
Maps Canada

Chicago, Cook County, Illinois
AB-43, Sub No. 184X



Federal Register Notice

Docket No. AB-43 (Sub-No. 184X)

Notice of Petition for Exemption to Abandon

On _____, 2008, Illinois Central Railroad Company ("IC") filed with the Surface Transportation Board, Washington, DC 20423, a petition for exemption for IC to abandon a line of industrial track extending from Station 0+00 (mainline MP 3.00-Throop Street) to Station 58+63 (mainline MP 2.00-Cermak Road) (the end of track), a distance of approximately 1.1 miles in Chicago, Cook County, Illinois. The line for which the abandonment exemption request was filed traverses United States Postal Service ZIP Code 60616. It has no stations.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions specified in Oregon Short Line R. Co. -- Abandonment -- Goshen, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested parties should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the *Federal Register*.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

Any environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of August, 2008, a copy of the foregoing **Petition for Exemption of Illinois Central Railroad Company** was served by first class mail, postage prepaid, upon the agencies specified in 49 C.F.R. § 1152.50(d)(1) and all known customers on the line to be abandoned, as follows:

Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701
Attn: Michael Stead

Military Surface Deployment & Distribution Command
Transportation Engineering Agency
Railroads for National Defense Program
720 Thimble Shoals Boulevard, Suite 130
Newport News, VA 23606-2574

National Park Service
National Center for Recreation and Conservation
1849 C. Street, N.W.
Washington, DC 20240

Ms. Gail Kimbell
Chief of the Forest Service
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, DC 20250-0003

Illinois Department of Transportation
Division of Public and Intermodal Transportation
Bureau of Railroads
2300 South Dirksen Parkway
Springfield, IL 62764
Attn: George Weber

Mr. Joel Fink,
President & CEO
Allied Metal Company
2059 S. Canal Street
Chicago IL 60616-1578



Michael J. Barron, Jr.

VERIFICATION

State of Illinois)
) ss:
County of Cook)

Robert M. Wedam, being duly sworn, deposes and says that he is Senior Manager
– Network Strategies of Illinois Central Railroad Company, that he has read the foregoing
Petition for Exemption and knows the facts asserted therein. and that the same are true as stated


Robert M. Wedam

SUBSCRIBED AND SWORN TO
before me this 21st day
of August, 2008


Notary Public

My Commission expires:

